

LEWIS
AND
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LLP
LAWYERS

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Attorneys for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA Commercial Mortgage Company,

USA Capital Realty Advisors, LLC,¹

USA Capital Diversified Trust Deed Fund,
LLC,

USA Capital First Trust Deed Fund, LLC,²

USA Securities, LLC,³

Debtors.

Affects:

- ☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☒ USA Capital Diversified Trust Deed Fund,
LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**Status And Agenda For June 26, 2009
Hearings filed by USACM Liquidating
Trust**

Hearing Date: June 26, 2009
Hearing Time: 9:30 a.m.

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

1 1. **Status Hearing:** Adv. 08-01121-lbr, USACM Liquidating Trust v. Fertitta
2 Enterprises, Inc. et al

3 **Order filed:** Order Scheduling Settlement Conference. Status hearing to be
4 04/15/09 held on 6/26/2009 at 09:30 AM at LBR-Courtroom 1, Foley
5 Federal Bldg. Settlement Conference scheduled for 6/18/2009 at
6 01:30 PM at LBR-Courtroom 1, Foley Federal Bldg. [53]

7 **Status** Settlement conference conducted but no settlement reached.
8 Ready to proceed.

9 2. **Scheduling Conference Re: Complaint:** Adv. 08-01209-lbr, USACM
10 Liquidating Trust et al v. Fogg

11 **Complaint filed:** Adversary case 08-01209. Complaint Filed by USACM
12 7/15/08 LIQUIDATING TRUST, USA CAPITAL DIVERSIFIED
13 TRUST DEED FUND, LLC vs. DAVID A FOGG [DE 1]

14 **Answer filed:** Answer to Complaint ; *Request for Jury Trial with Certificate of*
15 9/02/08 Service Filed by RYAN J. WORKS on behalf of DAVID A
16 FOGG [DE 10]

17 **Order filed:** Scheduling conference scheduled for hearing to be held on
18 5/26/09 6/26/09 at 9:30 AM at LBR-Courtroom 1, Foley Federal Bldg.
19 [DE 33]

20 **Status** Ready to proceed.

21 3. **Status Hearing Re: Complaint:** Adv. 08-01122-lbr, USACM
22 LIQUIDATING TRUST v. J.M.K. INVESTMENTS, LTD. et al

23 **Complaint filed:** Complaint Filed by USACM LIQUIDATING TRUST vs. J.M.K.
24 04/15/09 INVESTMENTS, LTD., JOHN M KEILLY, MOUNTAIN WEST
25 MORTGAGE LLC Fee Amount \$250. (13 (Recovery of
26 money/property - 548 fraudulent transfer)(02 (Other (e.g. other
 actions that would have been brought in state court if unrelated to
 bankruptcy. [1]

Answer filed: Answer to Complaint of Defendants J.M.K. Investments and John
 05/13/08 M. Keilly with Certificate of Service Filed by GEORGE C
 LAZAR on behalf of J.M.K. INVESTMENTS, LTD., JOHN M
 KEILLY [14]

Answer filed: Answer to Complaint Filed by DAVID A. COLVIN on behalf of
 05/14/08 MOUNTAIN WEST MORTGAGE LLC [15]

Status Settlement reached but documents not yet filed.
Ready to proceed.

4. **Motion to Amend Motion for Leave to File First Amended Complaint:**
Adv. 08-01133-lbr, USA Capital Diversified Trust Deed Fund, LLC v. Petersen et al

Motion filed: Motion to Amend Motion for Leave to File First Amended
5/15/09 Complaint with Certificate of Service Filed by MICHAEL
YODER on behalf of USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC [DE 60]

Order filed: Stipulation and Order Granting Extension of Time for Filing of
6/03/09 Defendants' Opposition Brief and Plaintiffs' Reply Brief on
Plaintiff's Motion for Leave to File First Amended Complaint [66]

Opposition filed: Opposition To Plaintiffs' Motion For Leave To File First
6/08/09 Amended Complaint (Defendants' Consolidated) Filed by
TIMOTHY R. O'REILLY on behalf of KATHRYN L.
PETERSEN LIVING TRUST, KLP TRUST DTD 7/15/99,
KATHRYN L PETERSEN, SPECIALIZED DEVELOPMENT
TAHOE, LLC, USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC [67]

Opposition filed: Opposition To Plaintiffs' Motion For Leave To File First
6/08/09 Amended Complaint (Defendants' Consolidated) Filed by
TIMOTHY R. O'REILLY on behalf of KATHRYN L.
PETERSEN LIVING TRUST, KLP TRUST DTD 7/15/99,
KATHRYN L PETERSEN, SPECIALIZED DEVELOPMENT
TAHOE, LLC, USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC [68]

Addendum filed: *Addendum To Defendants' Consolidated Opposition To Plaintiffs'*
6/19/09 *Motion For Leave To File First Amended Complaint* with
Certificate of Service Filed by TIMOTHY R. O'REILLY on
behalf of KATHRYN L. PETERSEN LIVING TRUST, KLP
TRUST DTD 7/15/99, KATHRYN L PETERSEN,
SPECIALIZED DEVELOPMENT TAHOE, LLC [DE 80]

Reply filed: *Reply in Support of Motion for Leave to File First Amended*
6/19/09 *Complaint* with Certificate of Service Filed by ERIC D.
MADDEN on behalf of USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC [DE 81]

Declaration filed: Declaration Of: ERIC D. MADDEN *in Support of USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC'S Reply in Support of Motion for Leave to File First Amended Complaint* with Certificate of Service Filed by ERIC D. MADDEN on behalf of USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC [DE 82]
6/19/09

Status Ready to proceed.

5. **Motion for Leave to File First Amended Complaint:** Adv. 08-01134-lbr
USACM Liquidating Trust Et Al v. Petersen et al

Motion filed: Motion for Leave to File First Amended Complaint with Certificate of Service Filed by MICHAEL YODER on behalf of USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC, USACM LIQUIDATING TRUST [DE 100]
5/15/09

Order filed: Stipulation and Order Granting Extension of Time for Filing of Defendants' Opposition Brief and Plaintiffs' Reply Brief on Plaintiff's Motion for Leave to File First Amended Complaint [108]
6/03/09

Opposition filed: Opposition To Plaintiffs' Motion For Leave To File First Amended Complaint (Defendants' Consolidated) With Certificate Of Service Filed by TIMOTHY R. O'REILLY on behalf of KATHRYN L. PETERSEN LIVING TRUST, KLP TRUST DTD 7/15/99, MARY PETERSEN FAMILY TRUST DTD 8/12/98, MICHAEL D PETERSEN FAMILY TRUST DTD 8/12/98, KATHRYN L PETERSEN, MARY PETERSEN, MICHAEL D PETERSEN [110]
6/08/09

Addendum filed: Addendum To Defendants' Consolidated Opposition To Plaintiffs' Motion For Leave To File First Amended Complaint with Certificate of Service Filed by TIMOTHY R. O'REILLY on behalf of KATHRYN L. PETERSEN LIVING TRUST, KLP TRUST DTD 7/15/99, MARY PETERSEN FAMILY TRUST DTD 8/12/98, MICHAEL D PETERSEN FAMILY TRUST DTD 8/12/98, KATHRYN L PETERSEN, MARY PETERSEN, MICHAEL D PETERSEN [122]
6/19/09

Reply filed: Reply *in Further Support of Motion for Leave to File First Amended Complaint* with Certificate of Service Filed by ERIC D. MADDEN on behalf of USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC, USACM LIQUIDATING TRUST [DE 123]
6/19/09

Status Ready to proceed.

1 6. **Status Hearing Re: Objection to Claim 1279 of Lerin Hills Ltd:** 06-
2 10725-lbr, USA Commercial Mortgage Company, Chapter 11

3 **Objection filed:** Objection to Claim 1279 of Lerin Hills Ltd with Certificate of
4 3/13/07 Service filed by ROB CHARLES on behalf of USACM
 LIQUIDATING TRUST [DE 3080]

5 **Declaration filed:** Declaration Of: Edward M. Burr *in Support of USACM*
6 3/13/07 *Liquidating Trust Objections to Proofs of Claim and Motions to*
 Classify Claims Filed by ROB CHARLES on behalf of USACM
 LIQUIDATING TRUST [DE 3082]

7 **Reply filed** Reply to Objection to Claim 1279 of Lerin Hills Ltd with
8 6/06/07 Certificate of Service filed Marjorie Guyman [DE 3904] -

9
10 **Status:** Continued from 4/26/07, 6/15/07, 10/15/07, 12/14/07, 12/20/07,
11 2/21/08, 5/8/08, 2/3/09, 2/20/09, 5/18/09, and 6/12/09. Lerin Hills
12 has council. The parties are exploring settlement and will be
 prepared for a status conference.

13 7. **Status Hearing Re: Amended Complaint:** Adv. 06-01212-lbr, Binford
14 Medical Developers, LLC Et Al v. Compass Financial Partners LLC et al

15 **Complaint filed:** Amended Complaint Filed by SUSAN WILLIAMS SCANN on
16 09/12/07 behalf of BINFORD MEDICAL DEVELOPERS, LLC against
 COMPASS FINANCIAL PARTNERS LLC [80]

17 **Answer filed:** Answer to Amended Complaint Filed by GEORGANNE W.
18 10/05/07 BRADLEY on behalf of COMPASS FINANCIAL PARTNERS
 LLC [89]

19 **Status** Unknown by the Trust.

20 8. **Status Hearing Re: Motion to Strike USACM Liquidating Trust's**
21 **Motion to Strike Defendant Michael Petersen's Jury Demand:** Adv. 08-01134-lbr,
22 USACM Liquidating Trust & USA Capital Diversified Trust Deed Fund v. Mary Petersen
23 & Mary Petersen Family Trust Dtd 8/12/98 & Michael D Petersen & Michael D Petersen
 Family Trust Dtd 8/12 & Kathryn L Petersen & Kathryn L. Petersen Living Trust & KLP
 Trust Dtd 7/15/99

24 05/26/09 Hearing Scheduled/Rescheduled. Status hearing to be held on
25 6/26/2009 at 09:30 AM at LBR-Courtroom 1, Foley Federal Bldg.
 [107]

26 **Status** Ready to proceed.

1 9. **Status Hearing Re: Complaint:** Adv. 08-01066-lbr, USACM Liquidating
2 Trust v. Compass USA SPE, LLC et al

3 **Complaint filed:** Adversary case 08-01066. Complaint Filed by USACM
4 02/29/08 LIQUIDATING TRUST vs. COMPASS USA SPE, LLC,
5 REPUBLIC TITLE OF TEXAS, INC. [DE 1]

6 **Notice of Hearing** *Notice of Rescheduled Hearing on Application For Order To*
7 **filed:** 05/28/09 *Show Cause Why Compass Answer And Counter Claim Should*
8 *Not Be Stricken and Status Hearing* Hearing Date: 06/26/2009
9 Hearing Time: 9:30 a.m. with Certificate of Service Filed by
10 JOHN HINDERAKER on behalf of USACM LIQUIDATING
11 TRUST [DE 57]

12 **Status** As of this writing, Compass has not appeared in this action
13 through counsel to prosecute its answer and counterclaim. The
14 USACM Liquidating Trust asks that, as was indicated in the order
15 to show cause, Compass' pleadings be stricken as it can not
16 appear pro se.

17 The Trust was advised that Debt Acquisition Company of
18 America V, LLC intended to file a motion to intervene as plaintiff
19 in this adversary proceeding. If no such motion has been filed,
20 upon dismissal of Compass' pleadings, the Trust requests this
21 Court's order of dismissal of this action without prejudice under
22 Bankr. R. 7041 and Rule 41(a), Fed. R. Civ. P.

23 10. **Show Cause Hearing: Order To Appear And Show Cause Why**
24 **Compass Answer And Counter Claim Should Not Be Stricken:** Adv. 08-01066-lbr,
25 USACM Liquidating Trust v. Compass USA SPE, LLC et al

26 **Order filed:** Order To Appear And Show Cause Why Compass Answer And
27 05/05/09 Counter Claim Should Not Be Stricken [DE 54]

28 05/29/09 Hearing Scheduled/Rescheduled. Show Cause hearing to be held
29 on 6/26/2009 at 09:30 AM at LBR-Courtroom 1, Foley Federal
30 Bldg. [DE 58]

31 **Status** As of this writing, Compass has not appeared in this action
32 through counsel to prosecute its answer and counterclaim. The
33 USACM Liquidating Trust asks that, as was indicated in the order
34 to show cause, Compass' pleadings be stricken as it can not
35 appear pro se.

36 The Trust was advised that Debt Acquisition Company of
37 America V, LLC intended to file a motion to intervene as plaintiff
38 in this adversary proceeding. If no such motion has been filed,

upon dismissal of Compass' pleadings, the Trust requests this Court's order of dismissal of this action without prejudice under Bankr. R. 7041 and Rule 41(a), Fed. R. Civ. P.

11. Status Hearing Re: Objection to Claim 784 of Binford Medical Developers: 06-10725-lbr, USA Commercial Mortgage Company, Chapter 11

Objection filed: 12/11/06 Objection to Claim 784 of BINFORD MEDICAL DEVELOPERS in the amount of filed by LENARD E. SCHWARTZER on behalf of USA COMMERCIAL MORTGAGE COMPANY [DE 2033]

Opposition filed: 12/29/06 Opposition with Certificate of Service Filed by SUSAN WILLIAMS SCANN on behalf of BINFORD MEDICAL DEVELOPERS, LLC [DE 2329]

Reply filed: 01/08/07 *Reply In Support of Objection to Claim 784 of BINFORD MEDICAL DEVELOPERS* Filed by LENARD E. SCHWARTZER on behalf of USA COMMERCIAL MORTGAGE COMPANY [DE 2378]

Status Continued from 1/17/07, 3/15/07, 4/26/07, 6/15/07, 8/7/07, 10/15/07, 12/14/07, 12/20/07, 1/11/08, 2/4/08, 4/17/08, 5/8/08, 7/24/08, 12/16/08, 2/3/09, and 6/12/09. Council will appear for status conference and the Trust will request a trial date.

12. Status Hearing Re: Objection to Claim 203 of Mountain West Mortgage Co. in the amount of \$2,048,000.00: 06-10725-lbr, USA Commercial Mortgage Company, Chapter 11

Objection Filed: 3/13/07 Objection to Claim 203 of Mountain West Mortgage Co./Lerin Hills in the amount of \$2,048,000.00 with Certificate of Service filed by ROB CHARLES on behalf of USACM LIQUIDATING TRUST [DE 3078]

Declaration Filed: 3/13/07 Declaration Of: Edward M. Burr *in Support of USACM Liquidating Trust Objections to Proofs of Claim and Motions to Classify Claims* Filed by ROB CHARLES on behalf of USACM LIQUIDATING TRUST [DE 3082]

Reply Filed: 6/06/07 *Reply to Objection of the USACM Liquidating Trust to Proof of Claim File by Lerin Hills LTD (Claim No. 203 & 1279)* Filed by MARJORIE A. GUYMON on behalf of MOUNTAIN WEST MORTGAGE, LLC [DE 3904]

1 **Order Filed:** Order Re: Pre-Trial Matters; Trial; and Settlement Conference.
2 2/24/09 Trial date set for 10/8/2009 and 10/9/2009 at 09:30 AM at LBR-
3 Courtroom 1, Foley Federal Bldg. Pre-Trial Conference set for
4 9/30/2009 at 02:30 PM at LBR-Courtroom 1, Foley Federal Bldg.
[DE 6856]

5 **Status** Continued from 4/26/07, 6/15/07, 10/15/07, 12/14/07, 2/21/08,
6 5/8/08, 7/24/08, 2/3/09, 2/20/09, 4/10/09, 5/18/09, and 6/12/09.
7 Mountain West Mortgage has retained substituted council. The
parties have a trial scheduled for October 8 and 9.

8 13. **Objection to Claim 10725-01105 of Terry Hansen in the amount of**
9 **\$105,000.00 :** 06-10725-lbr, USA Commercial Mortgage Company, Chapter 11

10 **Objection filed:** Objection to Claim 10725-01105 of Terry Hansen in the amount
11 4/09/09 of \$105,000.00 As Filed Partially in Wrong Debtor's Case;
12 Objection of DTDF to Proposed Allowance of Claim with
Certificate of Service Filed by JOHN HINDERAKER on behalf
of USACM LIQUIDATING TRUST [DE 7021]

13 **Status** No response received. Trustee will request the Court sustain the
14 objection.

15 14. **Objection to Claim of Teri Melvin:** 06-10725-lbr, USA Commercial
16 Mortgage Company, Chapter 11

17 **Objection filed:** Objection to Claim of Teri Melvin in the amount of Objection of
18 4/09/09 USACM Trust to Proofs of Claim of Teri Melvin As Filed
19 Partially in Wrong Debtor's Case; Duplicative claims; and
20 Objection of DTDF to Proposed Allowance of Claim with
Certificate of Service Filed by JOHN HINDERAKER on behalf
of USACM LIQUIDATING TRUST [DE 7023]

21 **Status** No response received. Trustee will request the Court sustain the
22 objection.

23 15. **Objection to Claim 10725-00217 and 10725-00244 of Developers Capital**
24 **Funding, Corp:** 06-10725-lbr, USA Commercial Mortgage Company, Chapter 11

25 **Objection filed:** Objection to Claim 10725-00217 and 10725-00244 of Developers
26 4/24/09 Capital Funding, Corp. in the amount of with Certificate of
Service Filed by JOHN HINDERAKER on behalf of USACM
LIQUIDATING TRUST [DE 7063]

1 **Status** No response received. Trustee will request the Court sustain the
2 objection.

3
4 **16. Objection to Claim 10725-02570 of Salvatore J. Reale:** 06-10725-lbr,
5 USA Commercial Mortgage Company, Chapter 11

6 **Objection filed:** Objection to Claim 10725-02570 of Salvatore J. Reale in the
7 4/24/09 amount of with Certificate of Service Filed by JOHN
8 HINDERAKER on behalf of USACM LIQUIDATING TRUST
9 [DE 7065]

10 **Status** No response received. Trustee will request the Court sustain the
11 objection.

12 **17. Motion for Order to Show Cause Why Objection to Lerin Hills Proof of**
13 **Claim Should Not Be Sustained:** 06-10725-lbr, USA Commercial Mortgage Company,
14 Chapter 11

15 **Motion filed:** Motion for Order to Show Cause Why Objection to Lerin Hills
16 4/28/09 Proof of Claim Should Not Be Sustained with Certificate of
17 Service Filed by JOHN HINDERAKER on behalf of USACM
18 LIQUIDATING TRUST [DE 7079]

19 **Order filed:** Order to Appear and Show Cause Why an Order Should Not be
20 4/29/09 Entered Sustaining the USACM LIQUIDATING TRUST's
21 Objection to LERIN HILLS LTD. Proof of Claim [DE 7084]

22 **Status** Rescheduled from 6/12/09. Lerin Hills has council, Mr. Ty
23 Kehoe. The Trust will withdraw the motion for order to show
24 cause at the status conference.

25 **18. Motion for Order to Show Cause Why Objection to Mountain West**
26 **Mortgage LLC Proof of Claim Should Not Be Sustained:** 06-10725-lbr, USA
27 Commercial Mortgage Company, Chapter 11

28 **Motion filed:** Motion for Order to Show Cause Why Objection to Mountain
29 4/28/09 West Mortgage LLC Proof of Claim Should Not Be Sustained
30 with Certificate of Service Filed by JOHN HINDERAKER on
31 behalf of USACM LIQUIDATING TRUST [DE 7080]

Order filed: Order to Appear and Show Cause Why an Order Should Not be
4/29/09 Entered Sustaining the USACM LIQUIDATING TRUST's
Objection to MOUNTAIN WEST MORTGAGE LLC Proof of
Claim [DE 7085]

Status Rescheduled from 6/12/09. Mountain West Mortgage has
retained substitute council. The Trust will withdraw the motion
for order to show cause at the hearing.

19. **Objection to Claim 10725-1332-1 and 10725-1335-1 of James J. Lee,
Esq. and the Law Offices of James J. Lee:** 06-10725-lbr, USA Commercial Mortgage
Company, Chapter 11

Objection filed: Objection to Claim 10725-1332-1 and 10725-1335-1 of James J.
4/29/09 Lee, Esq. and the Law Offices of James J. Lee in the amount of
with Certificate of Service Filed by MARVIN C. RUTH on behalf
of USACM LIQUIDATING TRUST [DE 7086]

Status No response received. Trustee will request the Court sustain the
objection.

20. **Status Hearing:** Adv. 08-01119-lbr, USACM Liquidating Trust v. Russell
et al

Order filed: Order Re: Pre-Trial Matters; Trial; and Settlement Conference..
02/24/09 Pre-Trial Conference set for 10/14/2009 at 02:30 PM at LBR-
Courtroom 1, Foley Federal Bldg.. Trial date set for 10/22/2009
and 10/23/2009 at 09:30 AM at LBR-Courtroom 1, Foley Federal
Bldg. [DE 47]

Order filed: Order Rescheduling Status Hearing. Status hearing to be held on
05/28/09 6/26/2009 at 09:30 AM at LBR-Courtroom 1, Foley Federal Bldg
[DE 64]

Status Ready to proceed.

21. **Motion To Approve Settlement Agreement Between The USACM
Liquidating Trust And Tanamera Resort Partners, LLC:** Adv. 08-01129-lbr, USACM
Liquidating Trust v. Tanamera Resort Partners, LLC

Motion filed: Motion to Approve Settlement Agreement Between THE
5/20/09 USACM LIQUIDATING TRUST and TANAMERA RESORT
PARTNERS, LLC with Certificate of Service Filed by ERIC D.
MADDEN on behalf of USACM LIQUIDATING TRUST [DE
29]

Declaration filed: Declaration Of: GEOFFREY L. BERMAN with Certificate of Service Filed by ERIC D. MADDEN on behalf of USACM LIQUIDATING TRUST [30]

Order filed: Order Rescheduling Hearing. Hearing scheduled 6/26/2009 at 09:30 AM at LBR-Courtroom 1, Foley Federal Bldg..(Related document(s)[29] Motion to Approve Settlement filed by Plaintiff USACM LIQUIDATING TRUST. [31]

Status No objections filed – ready to proceed.

22. **Motion for Allowance of Bunch Claim:** 06-10725-lbr, USA Commercial Mortgage Company, Chapter 11

Motion filed: *Motion for Allowance of Bunch Claim* with Certificate of Service Filed by ROB CHARLES on behalf of USACM LIQUIDATING TRUST [DE 7182]

06/05/09 Hearing Scheduled/Rescheduled. Hearing scheduled 6/26/2009 at 09:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 7185]

Status No objection has been received. The Trust will request this Court's order granting the motion.

Dated June 24, 2009.

LEWIS AND ROCA LLP

By: /s/ RC (#6593)
Susan M. Freeman, AZ 4199 (*pro hac vice*)
Rob Charles, NV 6593
John Hinderaker, AZ 18024 (*pro hac vice*)
Counsel for USACM Liquidating Trust

PROOF OF SERVICE

COPY of the aforementioned sent via e-mail or U.S. First Class Mail on June 24, 2009 to the parties listed on Post-Effective Official Service List for Limited Notice No. 5 Dated March 31, 2009.

/s/ Carrie Lawrence
Carrie Lawrence
Lewis and Roca LLP